

## **DEPARTMENT OF COMMERCE**

### **National Telecommunications and Information Administration**

#### **Public Safety Interoperable Communications (PSIC) Grant Program**

**AGENCY:** National Telecommunications and Information Administration, Commerce

**ACTION:** Amendment to Notice of Availability of Funds

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**SUMMARY:** On July 23, 2007, the National Telecommunications and Information Administration (NTIA) published a Notice of Availability of Funds in the *Federal Register*, 72 Fed. Reg. 40120, for the Public Safety Interoperable Communications (PSIC) Grant Program. On August 3, 2007, the President signed into law the Improving Emergency Communications Act of 2007, Pub. L. No. 110-53, which amended Section 3006 of the Deficit Reduction Act of 2005 that authorized the PSIC Grant Program. This Notice provides amendments to PSIC Grant Program Notice of Availability of Funds.

**DATES:** This amendment to the Final Rule takes effect immediately. Each State and Territory continues to be required to submit its application and narrative no later than 11:59 p.m. on August 22, 2007. Each State and Territory, however, will now be required to submit its Statewide Communications Interoperability Plans and Investment Justification under the PSIC Grant Program no later than December 3, 2007.

**ADDRESSES:** Please see 72 Fed. Reg. 40120.

**FOR FURTHER INFORMATION CONTACT:** Laura Pettus, Program Specialist, Public Safety Interoperable Communications, telephone: (202) 482-5802; fax: (202) 482-2156. Information about the PSIC can also be obtained electronically via the Internet at [www.ntia.doc.gov/psic](http://www.ntia.doc.gov/psic).

#### **SUPPLEMENTARY INFORMATION:**

On July 23, 2007, the National Telecommunications and Information Administration (NTIA) published a Notice of Availability of Funds in the *Federal Register*, 72 Fed. Reg. 40120, for the Public Safety Interoperable Communications (PSIC) Grant Program. On August 3, 2007, the President signed into law the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53. Title XXII of that Act, known as the Improving Emergency Communications Act of 2007, amended Section 3006 of the Deficit Reduction Act of 2005 which originally authorized the PSIC Grant Program.

Specifically, Section 2201 of Pub. L. No. 110-53 expanded the PSIC Grant Program's purpose by: (1) including planning and coordination as eligible costs; (2) explicitly permitting funds to be used for equipment and software; (3) allowing investments in other public safety

communications spectrum bands; and (4) requiring the establishment and implementation of strategic technology reserve by public safety agencies. Accordingly, NTIA now amends the Notice of Availability of Funds as follows to include pre-positioning activities as a program and selection priority; to remove the restriction involving 700 MHz frequency band; to amend the Funding Availability section to set aside \$75 million to fund pre-positioning activities; and to exclude planning and coordination activities from the 20% cost share requirement.

## **Program Information**

The PSIC Grant Program will assist public safety agencies in the planning and coordination associated with, the acquisition of, deployment of, or training for the use of interoperable communications equipment, software, and systems that:

- (1) utilize reallocated public safety spectrum for radio communication<sup>1</sup>;
- (2) enable interoperability with communications systems that can utilize reallocated public safety spectrum for radio communications; or
- (3) otherwise improve or advance the interoperability of public safety communications systems that utilize other public safety spectrum bands.

NTIA is seeking solutions from public safety agencies that (1) achieve meaningful and measurable improvements in the state of interoperability for public safety communications and (2) fill interoperability gaps identified in the Statewide Plans.

NTIA recognizes that many solutions exist to achieve interoperability, and the PSIC Grant Program will not dictate a specific technology solution for public safety agencies. However, NTIA has identified the following technology and all hazards related priorities that States and Territories must consider when selecting projects for PSIC funding:

1. Technology
  - a. Adopt advanced technological solutions
  - b. Improve spectrum efficiency
  - c. Use cost-effective measures
2. All Hazards Mitigation
  - a. Improve communications in areas at high risk for natural disasters
  - b. Continue to improve interoperability efforts in urban and metropolitan areas at high risk for threats of terrorism
  - c. Pre-position or secure interoperable communications in advance for immediate deployment in an emergency or major disaster

## **Funding Availability**

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<sup>1</sup> For purposes of this program, the term “reallocated public safety spectrum” will mean the band of spectrum located at 764-776 megahertz and 794-806 megahertz, inclusive.

**Table 1 - PSIC State/Territory Allocation**

<b>State/Territory</b>	<b>PSIC Funding</b>	<b>STR Funding</b>
Alabama	\$ 13,585,399	\$ 1,052,169
Alaska	\$ 7,250,345	\$ 561,529
American Samoa	\$ 691,948	\$ 53,590
Arizona	\$ 17,713,050	\$ 1,371,850
Arkansas	\$ 11,169,402	\$ 865,054
California	\$ 94,034,510	\$ 7,282,835
Colorado	\$ 14,336,638	\$ 1,110,352
Connecticut	\$ 12,999,879	\$ 1,006,822
Delaware	\$ 8,196,842	\$ 634,833
District of Columbia	\$ 11,857,972	\$ 918,383
Florida	\$ 42,888,266	\$ 3,321,633
Georgia	\$ 25,311,354	\$ 1,960,327
Guam	\$ 2,600,678	\$ 201,419
Hawaii	\$ 8,069,879	\$ 625,000
Idaho	\$ 7,289,795	\$ 564,584
Illinois	\$ 36,414,263	\$ 2,820,231
Indiana	\$ 18,291,735	\$ 1,416,668
Iowa	\$ 10,935,974	\$ 846,975
Kansas	\$ 10,667,169	\$ 826,157
Kentucky	\$ 15,405,625	\$ 1,193,143
Louisiana	\$ 19,672,287	\$ 1,523,590
Maine	\$ 7,567,579	\$ 586,098
Maryland	\$ 22,934,593	\$ 1,776,251
Massachusetts	\$ 21,191,988	\$ 1,641,288
Michigan	\$ 25,039,781	\$ 1,939,294
Minnesota	\$ 14,262,071	\$ 1,104,577
Mississippi	\$ 10,989,345	\$ 851,109
Missouri	\$ 17,465,576	\$ 1,352,683
Montana	\$ 6,549,685	\$ 507,263
Nebraska	\$ 8,582,108	\$ 664,672
Nevada	\$ 12,042,417	\$ 932,668
New Hampshire	\$ 5,966,760	\$ 462,117
New Jersey	\$ 30,806,646	\$ 2,385,930
New Mexico	\$ 8,288,725	\$ 641,950
New York	\$ 60,734,783	\$ 4,703,820
North Carolina	\$ 22,130,199	\$ 1,713,952
North Dakota	\$ 7,052,490	\$ 546,205
Northern Mariana Islands	\$ 719,236	\$ 55,704
Ohio	\$ 29,377,337	\$ 2,275,232
Oklahoma	\$ 11,684,183	\$ 904,923
Oregon	\$ 12,182,532	\$ 943,519

Pennsylvania	\$	34,190,555	\$	2,648,008
Puerto Rico	\$	9,590,025	\$	742,733
Rhode Island	\$	7,365,694	\$	570,462
South Carolina	\$	13,499,308	\$	1,045,502
South Dakota	\$	6,549,691	\$	507,264
Tennessee	\$	17,540,752	\$	1,358,506
Texas	\$	65,069,247	\$	5,039,518
U.S. Virgin Islands	\$	856,907	\$	66,366
Utah	\$	10,353,261	\$	801,845
Vermont	\$	4,476,761	\$	346,719
Virginia	\$	25,012,521	\$	1,937,183
Washington	\$	19,180,347	\$	1,485,490
West Virginia	\$	8,429,484	\$	652,851
Wisconsin	\$	15,367,216	\$	1,190,168
Wyoming	\$	5,952,187	\$	460,988
<b>Total</b>	<b>\$</b>	<b>968,385,000</b>	<b>\$</b>	<b>75,000,002</b>

Pursuant to Section 2201 of Pub. L. No. 110-53, States and Territories will be required to establish and implement a strategic technology reserve (STR) to pre-position or secure interoperable communications in advance for immediate deployment in an emergency situation or major disaster. The PSIC Grant Program has apportioned a total of \$75 million for STR Funding. Each State or Territory has been allocated a presumptive funding amount proportionate to its total allocation under the program.

To be considered for PSIC funding, the STR must be capable of re-establishing communications when existing critical infrastructure is damaged or destroyed in an emergency or a major disaster. STR projects should include the following:

- (1) appropriate current, widely-used equipment, such as Land Mobile Radio Systems, cellular telephones and satellite-enabled equipment (and related communications service), Cells-On-Wheels, Cells-On-Light Trucks, or other self-contained mobile cell sites that can be towed, backup batteries, generators, fuel, and computers;
- (2) equipment on hand for the Governor of each State, key emergency response officials, and appropriate State or local personnel;
- (3) contracts (including pre-negotiated contracts) for rapid delivery of the most current technology available from commercial sources; and
- (4) arrangements for training to ensure the personnel are familiar with the operation of the equipment and devices to be delivered pursuant to such contracts.

States and Territories should ensure that they submit Investment Justifications reflecting projects that include at least the presumptive funding amount to establish and implement a strategic technology reserve (STR) to pre-position or secure interoperable communications in advance for immediate deployment in an emergency situation or major disaster. If a State or Territory is not submitting a PSIC Investment for the STR, it must submit a detailed written explanation along with its Investment Justification that demonstrates that it has already implemented such a

strategic technology reserve or that other funded project proposals represent a higher priority for public safety communications. Upon a finding by the Assistant Secretary that the State or Territory has met the demonstration requirement, it may use the presumptive funding amount for other approved PSIC projects.

### **Funding Priorities and Selection Factors**

NTIA recognizes that many solutions exist to achieve interoperability, and the PSIC Grant Program will not dictate the technology or approach for public safety agencies. However, NTIA has identified that when selecting projects for PSIC funding States and Territories must consider: (1) technology, including adoption of advanced technological solutions, improved spectrum efficiency, and cost-effective measures; and (2) solutions that support capabilities in response to all hazards approach regardless of their source or cause, including improving communications in areas at high risk for natural disasters and in urban and metropolitan areas at high risk for threats of terrorism, as well as pre-positioning or securing interoperable communications in advance for immediate deployment in an emergency or major disaster.

In addition, NTIA will review each Statewide Plan to ensure that States and Territories address the following PSIC requirements: how public safety agencies will plan and coordinate, acquire, deploy, and train on communications equipment, software, and systems that use – or enable interoperability with communications systems that use – in the reallocated public safety spectrum or otherwise improve or advance the interoperability with public safety communications systems that utilize other public safety spectrum bands; how a strategic technology reserve will be established and implemented to pre-position or secure interoperable communications in advance for immediate deployment in an emergency or major disaster; how local and tribal government entities' interoperable communications needs have been included in the planning process and how their needs are being addressed, if applicable; and how authorized nongovernmental organizations' interoperable communications needs have been included in the planning process and how their needs are being addressed, if applicable.

### **Cost Sharing Requirements**

The PSIC Grant Program requires cost sharing. By statute, each public safety agency receiving PSIC funds is required to meet and document the 20 percent statutory match requirement for each project. The SAA is required to track and report the 20 percent match requirement for each individual project that receives PSIC funds for efforts other than planning and coordination and training which do not require a match. The match requirements can be met through cash or in-kind sources consistent with 15 C.F.R. §§ 24.3, 24.24. This documentation must demonstrate that match funds are from non-federal sources.

As provided in 48 U.S.C. § 1469a, the requirement for local matching funds under \$200,000 (including in-kind contributions) is waived for the Territorial governments in Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

Applicants are exempt from the 20 percent match for all pre-award costs related to the Statewide Plans.

Training activities can make up no more than 20 percent of a State's or Territory's total federal allocation for the PSIC Program.

Each STR project will be considered as an individual Investment and subject to the above cost sharing requirements.

All other substantive provisions of the PSIC Grant Program Notice of Availability of Funds remain unchanged. Additional information on these changes is available in Modification 1 of the Federal Funding Opportunity Notice under CFDA Number 11.555 available at <http://www.grants.gov/search/search.do?oppId=14878&mode=VIEW> and in the Revised Grant Guidance available at [www.ntia.doc.gov/](http://www.ntia.doc.gov/).

### **Executive Order 12866**

The amendment to this rule has been determined not to be Economically Significant under Executive Order 12866.

### **Executive Order 13132, Federalism**

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

### **Administrative Procedure Act/ Regulatory Flexibility Act**

Prior notice and opportunity for public comment are not required by the Administrative Procedure Act or any other law for this rule concerning grants, benefits, and contracts (5 U.S.C. § 553(a) (2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. § 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. § 601 et seq.) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

### **Congressional Review of Agency Rulemaking**

NTIA has not submitted this final rule to the Congress and the Government Accountability Office under the Congressional Review of Agency Rulemaking Act, 5 U.S.C. § 801 *et seq.* This amendment is not a "major rule" within the meaning of the Act.

Dated: August 16, 2007

Kathy Smith  
Chief Counsel